REMARKS

Claims 1-17 are pending in the instant application. Claim 14 has been amended to correct a typographical error in the claim dependency. No new matter is added by this amendment.

Claims 1-17 have been subjected to a Restriction Requirement as follows:

Group I, claims 1-5, 7-9 and 15, drawn to nucleic acids, vectors, host cells, kits and methods for making a polypeptide, classified in class 536, subclass 23.1, and class 435, subclasses 69.1, 320.1 and 325, for example;

Group II, claim 6, drawn to a method for determining the presence of a lung specific nucleic acid by hybridization, classified in class 435, subclass 6, for example;

Group III, claims 10-11 and 15, drawn to polypeptides and kits comprising a polypeptide, classified in class 530, subclass 350, for example;

Group IV, claim 12, drawn to an antibody, classified in class 530, subclass 387.1, for example;

Group V, claim 13, drawn to a method for determining the presence of a lung specific protein using an antibody, classified in class 435, subclass 7.1, for example;

Group VI, claim 14, (in part), drawn to a method for diagnosing and monitoring the presence and metastases of lung cancer in a patient by determining the amount of a nucleic acid molecule, classified in class 435, subclass 4, for example;

Group VII, claim 14, (in part), drawn to a method for diagnosing and monitoring the presence and metastases of lung cancer in a patient by determining the amount of a polypeptide, classified in class 424, subclass 277.1, for example;

Group VIII, claim 16, drawn to a method of treating a patient with lung cancer with an antibody, classified in class 424, subclass 130.1, for example;

Group IX, claim 17, (in part), drawn to a vaccine comprising a polypeptide, classified in class 514, subclass 2, for example; and

Group X, claim 17, (in part), drawn to a vaccine comprising a nucleic acid, classified in class 514, subclass 44, for example.

The Examiner suggests that these Groups are distinct.

Specifically, with respect to Groups I, III, IV, IX and X, the Examiner suggests that the claims are drawn to different products having different structures and functions.

With respect to Groups I and (II and VI), Groups III and

VII, and Groups IV and (V and VIII), the Examiner has acknowledged their relationship as product and process of use. However, the Examiner suggests that the Groups are distinct because the products can be used in materially different methods or processes.

With respect to Groups I and (V, VII and VIII), Groups II and (III, IV, IX and X), Groups II and V-VIII, Groups III and (V, VI and VIII), Group IV and (VI-VII), and Groups (V-VIII) and (IX and X), the Examiner suggests that the Groups are unrelated because the different Groups are not required for one another.

Further, the Examiner suggests that each of Groups I-X are drawn to a multitude of nucleic acids, polypeptides, and antibodies thereto which are independent and distinct. Thus, the Examiner is also requiring election of a single nucleic acid, polypeptide or antibody.

Applicants respectfully traverse this Restriction Requirement.

MPEP §803 provides two criteria which must be met for a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A search of prior art relating to an elected

nucleic acid, polypeptide or antibody would also reveal any references teaching uses for the nucleic acid, polypeptide or antibody. Accordingly, Applicants believe that searching of all the claims, at least when limited to elected nucleic acids or polypeptides is overlapping and would not place an undue burden on the Examiner if the Restriction is not made.

Thus, since this Restriction Requirement does not meet both criteria as set forth in MPEP § 803 to be proper, reconsideration and withdrawal of this Restriction Requirement is respectfully requested.

In addition, with respect to the election of a single sequence, MPEP § 803.04 clearly states that a reasonable number of nucleotide sequences, normally ten sequences, can be claimed in a single application. Accordingly, withdrawal of this sequence election requirement and reconsideration to include a more reasonable number of at least 10 sequences in accordance with MPEP § 803.04 is also respectfully requested.

However, in an earnest effort to advance the prosecution of this case, Applicants elect Group I, claims 1-5, 7-9 and 15, SEQ ID NO:51 encoding SEQ ID NO:174, with traverse.

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Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,

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Date: October 21, 2003

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